BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON

In the Matter of the Application regarding the Conversion and Acquisition of Control of Premera Blue Cross and its Affiliates	OIC Docket No. G02-45 DIRECT TESTIMONY OF BOB PERNA ON BEHALF OF THE WASHINGTON STATE MEDICAL ASSOCIATION

I, Bob Perna, do hereby swear to the following:

1. I am the Director of Health Care Economics for the Washington State Medical Association (WSMA).
2. I have devoted my entire professional life to the health care profession.
3. In my over 35 years of experience, I have had the privilege of working for a wide array of players in the health care system:
   A. For ten years I was the Provider Relations Department Supervisor at Blue Cross Blue Shield of Greater New York
   B. For over four years I was the Patient Accounts Manager at a major network of community health clinics, the Puget Sound Neighborhood Health Centers.
   C. For six years I was the Medical Practice Administrator at a private medical practice in Arizona.

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D. I was a billing manager at one of the leading nursing home chains in the country, Hillhaven based in Tacoma, and at two large hospitals, including Virginia Mason Medical Center.

4. I received my bachelor's degree from the University of Washington and have a degree in Health Care Management from Phoenix College in Arizona.

5. For the past twelve years I have worked for the WSMA.

6. The WSMA was founded in 1889, the year Washington became a state.

7. The WSMA is the largest physician association in the state, and the only one to represent physicians in all 39 counties, in all specialties, and in all clinical settings, from solo practitioners providing primary care to cardio-thoracic surgeons at major medical centers.

8. The organization has just reached an all-time high of more than 9,000 members.

9. The mission of the WSMA is to represent the professional interests of all physicians in Washington State, to advocate on their behalf and on behalf of their patients, and to promote effective physician leadership in the health care delivery system.

10. The WSMA is non-profit and funded by membership dues.

11. Through its foundation, the Washington State Medical Education and Research Foundation, the WSMA promotes public health in many important ways. Among the many examples of this work are:

A. AWARE, the Alliance Working for Antibiotic Resistance Education, is a comprehensive campaign to reduce the inappropriate use of antibiotics. This is a joint effort with many other groups, including health insurers and regulators.

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B. The Pain Management Project, which published a pain manual for health care providers to improve palliative care.

C. The Coronary Artery Bypass Graft Study, a project to determine what pre-operative variables best predict successful outcomes for this procedure.

12. The WSMA is committed to creating a health care system that provides patients the highest quality care in a safe and efficient manner. Toward that end, the organization collaborates with Premera and other health insurers to confront problems and develop solutions wherever possible.

13. The WSMA has participated in the Washington Healthcare Forum since its inception. The Forum brings leaders of provider and payer groups together to discuss major concerns. The process is far from perfect but has produced some promising benefits.

14. To facilitate better communication between physicians and health insurers, the WSMA initiated the Insurance Claim Assistance Request (ICAR) process. Members with unresolved claims disputes may contact the WSMA, which will not negotiate a particular outcome but will bring the physicians' point of view to the insurer's attention.

15. Other physician inquiries about insurers' actions or policies routinely come into the WSMA and are handled by its staff without being tracked by the ICAR process.

16. In addition to the extensive and frequent contact the WSMA has with physicians across the state, and with the health insurers that do business here, the organization has also conducted and commissioned major studies of the challenges that face Washington physicians.

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17. An important example of this work is the Medical Practice Data Project, which evaluated the factors that affect the economic viability of medical practices in the state. The results of this research were published in 2002 in a report entitled "Washington's Ailing Health Care System."

18. Among the study's findings is that insurance industry practices aggravate an already deeply flawed health care market, where physicians succeed in caring for their patients *despite* the system, not *because* of it. The industry practices that undermine quality care include inadequate reimbursement, delayed payment, and undue administrative burdens.

19. I joined the WSMA in 1992 as a reimbursement specialist. In that job I analyzed the reimbursement policies of commercial and public payers. Based on that analysis, I developed materials, wrote numerous articles, and presented seminars designed to inform physicians about their rights and responsibilities.

20. From 1994–1998, I served as the WSMA's Associate Director of Professional Affairs. In that capacity I was the lead staff person to the WSMA Committees for Medicare and Medicaid. I provided guidance to the physician members of these committees on reimbursement issues.

21. During this time, I also acted as a technical resource to WSMA members and staff on the full range of health insurance issues, researched and wrote widely on these subjects, and strove to resolve specific insurance problems for members whenever possible.

22. Fostering positive relations with health insurance companies was another key goal of mine, then and throughout my tenure at the WSMA.

23

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23. Since 1998, I have been the WSMA's Director of Health Care Economics. In this role I have expanded the offerings of Practice Management Seminars for physicians, practice managers, and administrative staff; I have developed practice management reference tools, available via WSMA's Web-based *Practice Resource Center*; and I have contributed many articles and Healthcare Economics Trends Reports to *WSMA Reports,* the monthly publication that reaches all WSMA members.

24. I am the author of reports that monitor important developments in our state's health care system, including:

Quo Vadis? Future Trends in Health Care, WSMA Reports, October 2000

The Return of Individual Insurance: Will It Help?, WSMA Reports, January 2001

Something's Gotta Give: Health Care Costs Rising Again, WSMA Reports, April 2001

Crying the Blues: Health Plans Converting To For-Profit Businesses, WSMA Reports, July 2001

The Evolution in Health Insurance, WSMA Reports, December 2001

Economic Trends and Effects on the Health Care Delivery System, WSMA Reports, March 2002

Physician Practice Models: Emerging Strategies, WSMA Reports, May/June 2003

Health Care Spending: More But Growth Rate Is Slowing, WSMA Reports, March 2004

25. I believe that I have a deep understanding of the health care delivery system in Washington State based on my extensive work for and with health insurance companies, medical practices, physicians, and patients.

26. My reports present several relevant conclusions, such as:

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"There is still a clear need for affordable care and affordable health insurance. Conversion to for-profit status creates perverse incentives to satisfy stockholders rather than patients and their physicians." Crying the Blues, *WSMA Reports*, July 2001.

"Many non-profit health insurers across the nation are switching, through mergers and acquisitions, to for-profit entities . . . That trend is expected to further intensify the upward pressure on premiums and the squeeze on physicians' pay as those insurers try to deliver promised returns to their investors." Economic Trends, *WSMA Reports*, March 2002.

"The 'custom' of arbitrarily downcoding and bundling has always been done by insurers, but medical practices in the past tolerated it because they had the margins to do so. That is not the case now." *WSMA Reports*, April 2002.

27. Premera has made a slew of assertions to support its conversion proposal that seriously undermine their credibility and raise questions about their true motives.

28. For example, Premera identifies CIGNA as a strong competitor, yet CIGNA covered less than 1% of the state's insured population in 2002.

29. Aetna is another carrier that Premera alleges is a formidable competitor, yet in 2002 Aetna had a mere 1.28% of the market regulated by the Office of the Insurance Commissioner.

30. Premera tries to prove that there is a healthy insurance market in our state by citing the presence of Community Health Plans and Molina Health Plans. But neither of those companies offers *any* private coverage: they are exclusively in publicly-funded programs that serve government employees and the poor, such as the Basic Health Plan and Healthy Options, the very markets Premera recently abandoned.

31. Another ploy Premera uses to exaggerate the level of competition in Washington is to mention carriers that are only in limited markets: PacifiCare of Washington only offers Medicare managed care coverage, and the Kaiser plans are only available to residents

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of the Vancouver/Columbia Valley area who are beyond driving distance from Kaiser HMO providers.

32. Premera even exaggerates the competitive climate by claiming it must compete with companies that are not actually insurers, such as First Choice Health Network, PHCO, and NorthwestOne, all of which are PPOs.

33. The most audacious contention Premera makes is that there is no difference between Eastern and Western Washington, that they should be treated as a single marketplace.

34. One hardly has to be a health care expert to grasp the absurdity of this argument: it ignores the geographic, demographic, and economic realities of the state. If Premera executives do not wish to see what is happening at ground level, perhaps they could fly over the state and notice the dense concentration of people and businesses along the I-5 corridor, and how that contrasts with the largely agrarian, sparsely populated counties elsewhere.

35. This lack of critical mass in Eastern Washington has prompted many insurers to leave the region. While Premera touts the arrival of Health Net, which had an enrollment of about 1,400 people last fall, it conveniently overlooks the departure of far larger players such as Group Health, NYLCare, Sisters of Providence, and others.

36. Contrary to Premera's misleading numbers, its true market share in Eastern Washington is closer to 70% across all lines of business and closer to 30% in Western Washington.

37. The impact of such market dominance is obvious. As the WSMA reported:

> With that market clout, the company has been able to dictate terms to physicians for some time. Elizabeth Peterson, MD, president of the Spokane County Medical Society, said, "Our interest [in the conversion] is to ensure that already vulnerable medical practices remain available in Eastern Washington, preserving access to care for many in our

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community." If Premera reduces its already low fees, she said that physicians would almost certainly have to stop using their reimbursement from private insurers like Premera to offset the even lower fees paid by Medicaid and Medicare. Even today, said Peterson, 'it's almost impossible to continue to serve those patients.' Without local physicians, patients will have to travel farther afield, go to hospital emergency rooms or go without care." *WSMA Reports*, Premera's proposed conversion worries physicians, subscribers and advocates, November/December 2002.

38. Premera would like the Commissioner to believe that physicians have other sources of patients, and revenue, besides those covered by the commercial insurance market.

39. Unfortunately, without contracts with Premera or its only true competitor, Regence, physicians have limited and unattractive options: they could go to a cash-only practice, but that is impossible for many expensive specialties and impractical for most practices and patients given the weak economy.

40. Physicians could participate only in rental networks such as First Choice or attempt to develop some version of a physician-hospital-community based organization such as PHCO in Spokane, but there are just too few patients enrolled in such plans to offset the loss of Premera patients.

41. The other alternative is to look to government plans; however, reimbursement rates for Medicare, Medicaid, and the BHP are lower than even Premera's rates.

42. Compounding the problem is that the commercial health insurance market is still employer-based. A practice may fervently wish to turn to other sources for patients but the employer of those patients controls carrier choice. This leaves physicians and patients with nowhere to go, realistically.

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43. Premera has already used its market dominance to keep reimbursement rates artificially low and erect a gauntlet of administrative barriers that threaten patient care and the ability of physicians to stay in business.

44. While anti-trust restrictions prevent the WSMA from negotiating reimbursement rates for the benefit of its members, I am familiar with the inadequacy of Premera's reimbursement policies through my research and through my daily contact with physicians, who consistently express concern that reimbursement levels do not reflect the cost of providing thorough and proper care for everyone they would like to treat.

45. WSMA members are very concerned that if profit became Premera's paramount obligation, it would use its enhanced strength to delay or deny valid claims, and to delay or deny valid requests for the authorization of tests, referrals, and procedures.

46. WSMA members are very concerned that if profit became Premera's paramount obligation, it would use its enhanced strength to force even more physicians to accept "take it or leave it" contracts that grant broad discretion to Premera and interfere with the patient-physician relationship.

47. WSMA members are very concerned that if profit became Premera's paramount obligation, it would use its enhanced strength, through pricing, benefit design, or outright withdrawal, to diminish: coverage for the sickest and most vulnerable patients, comprehensive coverage embracing primary and preventive care, coverage in the individual and small-group market, coverage for rural areas, and prescription drug coverage, among other undesirable developments.

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48. WSMA members hold beliefs that span the entire political spectrum. It is therefore difficult to reach a consensus on many issues.

49. Official WSMA policy is set by its House of Delegates. It is composed of more than 220 physicians selected by county and specialty medical associations across the state.

50. The House of Delegates *unanimously* voted to disapprove of Premera's proposal to convert to a for-profit corporation. Such unanimous votes are rare in the history of the WSMA.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my belief.

Executed on my behalf in Seattle, Washington, on this 31st day of March, 2004.

/s/
Bob Perna

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